



[Billing Code: 6750-01S]

## **FEDERAL TRADE COMMISSION**

### **16 CFR Part 305**

**[3084-AB15]**

## **ENERGY LABELING RULE**

**AGENCY:** Federal Trade Commission (“FTC” or “Commission”).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission proposes amending the Energy Labeling Rule (“Rule”) to make the Rule easier to use by reorganizing several sections, amending language to increase clarity, and eliminating several obsolete provisions. The proposed amendments have no substantive impact on the Rule’s requirements. The Commission seeks comment regarding the proposed amendments and invites any suggestions to improve the Rule’s format, organization, and clarity.

**DATES:** Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested parties may file a comment online or on paper:

- Online: Write “Energy Labeling Reorganization, Matter No. R611004” on your comment, and file your comment at <https://ftcpublic.commentworks.com/ftc/energylabeling> by following the instructions on the web-based form.
- Paper: Write “Energy Labeling Reorganization, Matter No. R611004” on your comment, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-

5610 (Annex B), Washington, D.C. 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex B), Washington, D.C. 20024.

See the Instructions for Submitting Comments part of the **SUPPLEMENTARY INFORMATION** section below for additional information.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome (202-326-2889), Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room CC-9528, 600 Pennsylvania Avenue NW, Washington, D.C. 20580.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Commission issued the Energy Labeling Rule (“Rule”) in 1979,<sup>1</sup> pursuant to the Energy Policy and Conservation Act of 1975 (“EPCA”).<sup>2</sup> The Rule requires energy labeling for major home appliances and other consumer products to help consumers compare competing models. It also contains labeling requirements for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, furnaces, central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions.

The Rule requires manufacturers to attach yellow EnergyGuide labels to many of the covered products and prohibits retailers from removing these labels or rendering them illegible. In addition, it directs sellers, including retailers, to post label information on

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<sup>1</sup> 44 FR 66466 (Nov. 19, 1979).

<sup>2</sup> 42 U.S.C. 6294. EPCA also requires the Department of Energy (DOE) to develop test procedures that measure how much energy appliances use, and to determine the

websites and in paper catalogs from which consumers can order products. EnergyGuide labels for most covered products contain three key disclosures: estimated annual energy cost, a product's energy consumption or energy efficiency rating as determined by DOE test procedures, and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models. The Rule requires marketers to use national average costs for applicable energy sources (*e.g.*, electricity, natural gas, oil) as calculated by DOE in all cost calculations. Under the Rule, the Commission periodically updates comparability range and annual energy cost information based on manufacturer data submitted pursuant to the Rule's reporting requirements.<sup>3</sup>

## **II. Proposed Amendments**

As the Commission has added new products and provisions to the Rule over the past several decades, some sections have become lengthy and difficult to navigate. To improve the Rule's organization and clarity, the Commission proposes several changes.<sup>4</sup>

First, the proposed amendments divide current section 305.3 (Description of covered products), which lists the specific product types (*e.g.*, clothes washers, LED lamps) covered by the Rule, into four different provisions organized by general product category (*i.e.*, appliances, furnaces and central air conditioners, lighting, and

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representative average cost a consumer pays for different types of energy.

<sup>3</sup> 16 CFR 305.10.

<sup>4</sup> To supplement the amendatory instructions at the end of this Notice, the FTC staff has posted a redline version of the Rule on the FTC Website. See this version on the comment page for this proceeding at <https://www.ftc.gov/policy/public-comments/2018/12/initiative-791>.

plumbing).<sup>5</sup> These changes should make it easier for stakeholders to identify relevant covered products, particularly for categories such as lighting, which contain several different product types and exemptions.

Second, the proposed amendments divide current section 305.11 into several different sections to make it easier to identify the labeling requirements applicable to specific products. Currently, section 305.11 addresses the label format and content for several appliances through a long list of instructions and exceptions. The proposed amendments divide this provision into several different sections: one for general layout and formatting requirements and six additional sections containing stand-alone label content requirements for refrigerator products, clothes washers, dishwashers, water heaters, room air conditioners, and pool heaters.<sup>6</sup>

Third, the proposed amendments remove obsolete references to provisions related to products produced decades ago (*e.g.*, exemptions for plumbing products produced before 1994).<sup>7</sup> Such provisions are no longer necessary because the Commission believes it unlikely that units produced before those dates are sold today. Finally, the proposed

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<sup>5</sup> The four proposed product category sections are: § 305.3 (Description of appliances and consumer electronics), § 305.4 (Description of furnaces and central air conditioners), § 305.5 (Description of lighting products), and § 305.6 (Description of plumbing products).

<sup>6</sup> The revised sections include: § 305.13 (Layout, format, and placement of labels for all products), § 305.14 (Label content for refrigerators, refrigerator-freezers, and freezers); § 305.15 (Label content for clothes washers), § 305.16 (Label content for dishwashers), § 305.17 (Label content for water heaters), § 305.18 (Label content for room air conditioners), and § 305.19 (Label content for pool heaters). The amendments would renumber but otherwise retain the current labeling sections for heating and cooling equipment, ceiling fans, lighting products, plumbing products, and televisions.

<sup>7</sup> The proposed amendments also remove an obsolete provision related to industry petitions for revised energy representations made in response to new or amended DOE test procedures. At the time of the Rule's initial publication, the Commission had responsibility for reviewing such petitions under EPCA. However, DOE has that responsibility under the current statute, making this particular provision no longer operable. *See* 42 U.S.C.

amendments make several minor changes to eliminate unnecessary cross references and correct typographical errors.

The Commission seeks comment on these proposed amendments and any suggestions to clarify, correct, or improve the Rule's organization and text, and, most importantly, make it easier to use. For instance, if there are any sections that are particularly confusing or unclear, commenters should identify them. As part of this proceeding, the Commission is not seeking comments on any additional, substantive changes to the Rule, such as modifications to label content, disclosure requirements, or product coverage.

### **III. Request for Comment**

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Write "Energy Labeling Reorganization, Matter No. R611004" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public FTC Website, at <https://www.ftc.gov/policy/public-comments>.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/energylabeling>, by following the instruction on the web-based form. If this Notice appears at <https://www.regulations.gov>, you also may file a comment through that website.

If you file your comment on paper, write “Energy Labeling Reorganization, Matter No. R611004” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610, Washington, DC 20024. If possible, please submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Website at [www.ftc.gov](http://www.ftc.gov), you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which is . . . privileged or confidential”—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be

filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Website to read this Notice of Proposed Rulemaking and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, *see* <https://www.ftc.gov/site-information/privacy-policy>. Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an oral hearing regarding these proposed amendments. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the Federal Register stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit a hearing request,

on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], in the form of a written comment that describes the issues on which the party wishes to speak. If there is no oral hearing, the Commission will base its decision on the written rulemaking record.

#### **IV. Paperwork Reduction Act**

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act. OMB has approved the Rule's existing information collection requirements through November 30, 2019 (OMB Control No. 3084-0069). The proposed amendments do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements and therefore do not require further OMB clearance.

#### **V. Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the proposed amendments do not impose any new or different obligations on entities regulated by the Energy Labeling Rule. As explained elsewhere in this document, the proposed amendments do not change the substance or frequency of the recordkeeping, disclosure, or reporting requirements. Thus, the amendments will not have a “significant economic impact on a substantial number of small entities.” 5 U.S.C. 605. The Commission has therefore concluded that a regulatory flexibility analysis is not necessary, and certifies, under section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendments will



not have a significant economic impact on a substantial number of small entities. This rulemaking document constitutes notice of the above certification and statement to the Small Business Administration required under 5 U.S.C. 605(b).

## **VI. Communications by Outside Parties to the Commissioners or Their Advisors**

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

## **VII. Proposed Rule Language**

### **List of Subjects in 16 CFR Part 305**

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

For the reasons set out above, the Commission proposes to amend 16 CFR part 305 as follows:

### **PART 305--ENERGY AND WATER USE LABELING FOR CONSUMER PRODUCTS UNDER THE ENERGY POLICY AND CONSERVATION ACT ("ENERGY LABELING RULE")**

1. The authority citation for Part 305 continues to read as follows:

**AUTHORITY:** 42 U.S.C. 6294.

2. Amend § 305.2, by revising paragraphs (n), (q)(1), (q)(2), and (aa) to read as follows:

\* \* \* \* \*

(n) *Covered product* means any consumer product or consumer appliance product

described in §§ 305.3, 305.4, 305.5, or 305.6 of this part.

\* \* \* \* \*

(q) *Estimated annual energy consumption and estimated annual operating or energy cost*—(1) *Estimated annual energy consumption* means the energy or (for plumbing products) water that is likely to be consumed annually in representative use of a consumer product, as determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293).

(i) *Kilowatt-hour use per year, or kWh/yr.*, means estimated annual energy consumption expressed in kilowatt-hours of electricity.

(ii) *Therm use per year, or therms/yr.*, means estimated annual energy consumption expressed in therms of natural gas.

(iii) *Gallon use per year, or gallons/yr.*, means estimated annual energy consumption expressed in gallons of propane or No. 2 heating oil.

(2) *Estimated annual operating or energy cost* means the aggregate retail cost of the energy that is likely to be consumed annually in representative use of a consumer product, as determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293).

\* \* \* \* \*

(aa) *New covered product* means a covered product the title of which has not passed to a purchaser who buys the product for purposes other than resale or leasing for a period in excess of one year.

\* \* \* \* \*

3. Revise § 305.3 to read as follows:

**§ 305.3 Description of appliances and consumer electronics.**

(a) *Refrigerators and refrigerator-freezers.* (1) Electric refrigerator means a cabinet designed for the refrigerated storage of food, designed to be capable of achieving storage temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C), and having a source of refrigeration requiring single phase, alternating current electric energy input only. An electric refrigerator may include a compartment for the freezing and storage of food at temperatures below 32 °F (0 °C), but does not provide a separate low temperature compartment designed for the freezing and storage of food at temperatures below 8 °F (−13.3 °C).

(2) *Electric refrigerator-freezer* means a cabinet which consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of food and designed to be capable of achieving storage temperatures above 32 °F (0 °C) and below 39 °F (3.9 °C), and with at least one of the compartments designed for the freezing and storage of food at temperatures below 8 °F (−13.3 °C) which may be adjusted by the user to a temperature of 0 °F (−17.8 °C) or below. The source of refrigeration requires single phase, alternating current electric energy input only.

(b) *Freezer* means a cabinet designed as a unit for the freezing and storage of food at temperatures of 0 °F or below, and having a source of refrigeration requiring single phase, alternating current electric energy input only.

(c) *Dishwasher* means a cabinetlike appliance which, with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils and most cooking utensils by chemical, mechanical, and/or electrical means and discharges to the plumbing drainage system.

(1) *Water Heating Dishwasher* means a dishwasher which is designed for heating cold inlet

water (nominal 50 °F) or a dishwasher for which the manufacturer recommends operation with a nominal inlet water temperature of 120 °F and may operate at either of these inlet water temperatures by providing internal water heating to above 120 °F in at least one wash phase of the normal cycle.

(2) [Reserved]

(d) *Water heater* means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

(1) Storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

(2) Instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

(3) Heat pump type units, with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, which are products designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

(e) *Room air conditioner* means a consumer product, other than a packaged terminal air conditioner, which is powered by a single phase electric current and which is an encased

assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and heating.

(f) *Clothes washer* means a consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement, and must be one of the following classes: automatic clothes washers, semi-automatic clothes washers, and other clothes washers.

(1) Automatic clothes washer means a class of clothes washer which has a control system capable of scheduling a pre-selected combination of operations, such as regulation of water fill level, and performance of wash, rinse, drain and spin functions, without the need for the user to intervene subsequent to the initiation of machine operation. Some models may require user intervention to initiate these different segments of the cycle after the machine has begun operation, but they do not require the user to intervene to regulate the water temperature by adjusting the external water faucet valves.

(2) Semi-automatic clothes washer means a class of clothes washer that is the same as an automatic clothes washer except that the user must intervene to regulate the water temperature by adjusting the external water faucet valves.

(3) Other clothes washer means a class of clothes washer which is not an automatic or semi-automatic clothes washer.

(g) *Ceiling fan* means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades, excluding large-diameter and high-speed small diameter fans as defined in appendix U of subpart B of 10 CFR part 430. The requirements of this part are otherwise limited to those ceiling fans for which the Department of Energy has

adopted and published test procedures for measuring energy usage.

(h) *Television* means a product that is designed to produce dynamic video, contains an internal TV tuner encased within the product housing, and is capable of receiving dynamic visual content from wired or wireless sources including but not limited to: broadcast and similar services for terrestrial, cable, satellite, and/or broadband transmission of analog and/or digital signals; and/or display-specific data connections, such as HDMI, Component video, S-video, Composite video; and/or media storage devices such as a USB flash drive, memory card, or a DVD; and/or network connections, usually using Internet Protocol, typically carried over Ethernet or Wi-Fi. The requirements of this part are limited to those televisions for which the Department of Energy has adopted and published test procedures for measuring energy use.

(i) *Pool heater* means an appliance designed for heating nonpotable water contained at atmospheric pressure, including heating water in swimming pools, spas, hot tubs and similar applications.

**§ 305.11 [Removed and reserved]**

4. Remove and reserve § 305.11.

**§§ 305.4 through 305.25 [Amended]**

5. Re-designate §§ 305.4 through 305.8, § 305.10, §§ 305.12 through §§ 305.17 and §§ 305.19 through §§ 305.25 as follows:

Old section	New Section
§ 305.4	§ 305.7
§ 305.5	§ 305.8
§ 305.6	§ 305.9

§ 305.7	§ 305.10
§ 305.8	§ 305.11
§ 305.10	§ 305.12
§ 305.12	§ 305.20
§ 305.13	§ 305.21
§ 305.14	§ 305.22
§ 305.15	§ 305.23
§ 305.16	§ 305.24
§ 305.17	§ 305.25
§ 305.19	§ 305.26
§ 305.20	§ 305.27
§ 305.21	§ 305.28
§ 305.22	§ 305.29
§ 305.23	§ 305.30
§ 305.24	§ 305.31
§ 305.25	§ 305.32

6. Add new § 305.4 to read as follows:

**§ 305.4 Description of furnaces and central air conditioners.**

(a) *Furnaces*. (1) Furnace means a product which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which—

(i) Is designed to be the principal heating sources for the living space of a residence;

- (ii) Is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu per hour;
  - (iii) Is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler; and
  - (iv) Has a heat input rate of less than 300,000 Btu per hour for electric boilers and low pressure steam or hot water boilers and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.
- (2) *Electric central furnace* means a furnace designed to supply heat through a system of ducts with air as the heating medium, in which heat is generated by one or more electric resistance heating elements and the heated air is circulated by means of a fan or blower.
- (3) *Forced air central furnace* means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.
- (4) *Gravity central furnace* means a gas fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.
- (5) *Electric boiler* means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds per square inch gauge (psig) steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250 °F water temperature.
- (6) *Low pressure steam or hot water boiler* means an electric, gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low



pressure steam boiler operates at or below 15 pounds psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250 °F water temperature.

(7) *Outdoor furnace or boiler* is a furnace or boiler normally intended for installation out-of-doors or in an unheated space (such as an attic or a crawl space).

(8) *Weatherized warm air furnace or boiler* means a furnace or boiler designed for installation outdoors, approved for resistance to wind, rain, and snow, and supplied with its own venting system.

(b) *Central air conditioner* means a product, other than a packaged terminal air conditioner, which is powered by single phase electric current, air cooled, rated below 65,000 Btu per hour, not contained within the same cabinet as a furnace, the rated capacity of which is above 225,000 Btu per hour, and is a heat pump or a cooling only unit.

(1) Condenser-evaporator coil combination means a condensing unit made by one manufacturer and one of several evaporator coils, either manufactured by the same manufacturer or another manufacturer, intended to be combined with that particular condensing unit.

(2) Condensing unit means a component of a “central air conditioner” which is designed to remove heat absorbed by the refrigerant and to transfer it to the outside environment, and which consists of an outdoor coil, compressor(s), and air moving device.

(3) Evaporator coil means a component of a central air conditioner which is designed to absorb heat from an enclosed space and transfer the heat to a refrigerant.

(4) Single package unit means any central air conditioner in which all the major assemblies are enclosed in one cabinet.

(5) Split system means any central air conditioner in which one or more of the major

assemblies are separate from the others.

(c) *Heat pump* means a product, other than a packaged terminal heat pump, which consists of one or more assemblies, powered by single phase electric current, rated below 65,000 Btu per hour, utilizing an indoor conditioning coil, compressor, and refrigerant-to-outdoor air heat exchanger to provide air heating, and may also provide air cooling, dehumidifying, humidifying, circulating, and air cleaning.

7. Add new § 305.5 to read as follows:

**§ 305.5 Description of lighting products.**

(a) *Fluorescent lamp ballast* means a device which is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation.

(b) *Fluorescent lamp*: (1) Means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultra-violet energy generated by the mercury discharge into light, including only the following:

(i) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more;

(ii) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more;

(iii) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1-1978 and related supplements (copies of ANSI C78.1-1978 and

related supplements may be obtained from the American National Standards Institute, 11 West 42nd St., New York, NY 10036); and

(iv) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3-1978 (R1984) and related supplement ANSI C78.3a-1985 (copies of ANSI C78.3-1978 (R1984) and related supplement ANSI C78.3a-1985 may be obtained from the American National Standards Institute, 11 West 42nd St., New York, NY 10036); but

(2) *Fluorescent lamp* does not mean any lamp excluded by the Department of Energy, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types; and

(3) *General service fluorescent lamp* means a fluorescent lamp which can be used to satisfy the majority of fluorescent applications, but does not mean any lamp designed and marketed for the following nongeneral lighting applications:

- (i) Fluorescent lamps designed to promote plant growth;
  - (ii) Fluorescent lamps specifically designed for cold temperature installations;
  - (iii) Colored fluorescent lamps;
  - (iv) Impact-resistant fluorescent lamps;
  - (v) Reflectorized or aperture lamps;
  - (vi) Fluorescent lamps designed for use in reprographic equipment;
  - (vii) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum;
- and
- (viii) Lamps with a color rendering index of 82 or greater.

(c) *General service lamp* means:

(1) A lamp that is:

- (i) A medium base compact fluorescent lamp;
- (ii) A general service incandescent lamp;
- (iii) A general service light-emitting diode (LED or OLED) lamp; or
- (iv) Any other lamp that the Secretary of Energy determines is used to satisfy lighting applications traditionally served by general service incandescent lamps.

(2) Exclusions. The term general service lamp does not include—

- (i) Any lighting application or bulb shape described in paragraphs (e)(3)(ii)(A) through (T) of this section; and
- (ii) Any general service fluorescent lamp.

(d) *Medium base compact fluorescent lamp* means an integrally ballasted fluorescent lamp with a medium screw base, a rated input voltage range of 115 to 130 volts and which is designed as a direct replacement for a general service incandescent lamp; however, the term does not include—

(1) Any lamp that is:

- (i) Specifically designed to be used for special purpose applications; and
  - (ii) Unlikely to be used in general purpose applications, such as the applications described in the definition of “General Service Incandescent Lamp” in paragraph (e)(3)(ii) of this section;
- or

(2) Any lamp not described in the definition of “General Service Incandescent Lamp” in this section and that is excluded by the Department of Energy, by rule, because the lamp is—

- (i) Designed for special applications; and

(ii) Unlikely to be used in general purpose applications.

(e) *Incandescent lamp*: (1) Means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp;

(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, ER, BR, BPAR, or similar bulb shapes with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.25 inches, and has a rated wattage that is 40 watts or higher;

(iii) Any general service incandescent lamp (commonly referred to as a high- or higher-wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp); but

(2) Incandescent lamp does not mean any lamp excluded by the Secretary of Energy, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types;

(3) *General service incandescent lamp* means:

(i) In general, a standard incandescent, halogen, or reflector type lamp that—

(A) Is intended for general service applications;

- (B) Has a medium screw base;
  - (C) Has a lumen range of not less than 310 lumens and not more than 2,600 lumens; and
  - (D) Is capable of being operated at a voltage range at least partially within 110 and 130 volts.
- (ii) Exclusions. The term “general service incandescent lamp” does not include the following incandescent lamps:
- (A) An appliance lamp as defined at 42 U.S.C. 6291(30);
  - (B) A black light lamp;
  - (C) A bug lamp;
  - (D) A colored lamp as defined at 42 U.S.C. 6291(30);
  - (E) An infrared lamp;
  - (F) A left hand thread lamp;
  - (G) A marine lamp;
  - (H) A marine signal service lamp;
  - (I) A mine service lamp;
  - (J) A plant light lamp;
  - (K) A rough service lamp as defined at 42 U.S.C. 6291(30);
  - (L) A shatter resistant lamp (including a shatter-proof lamp and a shatter-protected lamp);
  - (M) A sign service lamp;
  - (N) A silver bowl lamp;
  - (O) A showcase lamp;
  - (P) A traffic signal lamp;
  - (Q) A vibration service lamp as defined at 42 U.S.C. 6291(30);

(R) A G shape lamp (as defined in ANSI C78.20-2003 and C79.1-2002) with a diameter of 5 inches or more;

(S) A T shape lamp (as defined in ANSI C78.20-2003 and C79.1-2002) and that uses not more than 40 watts or has a length of more than 10 inches; or

(T) A B, BA, CA, F, G16-1/2, G-25, G-30, S, or M-14 lamp (as defined in ANSI C79.1-2002 and ANSI C78.20-2003) of 40 watts or less.

(4) Incandescent reflector lamp means a lamp described in paragraph (e)(1)(ii) of this section; and

(5) Tungsten halogen lamp means a gas filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

(f) *Light emitting diode (LED)* means a p-n junction solid state device the radiated output of which is a function of the physical construction, material used, and exciting current of the device. The output of a light emitting diode may be in -

(1) The infrared region;

(2) The visible region; or

(3) The ultraviolet region.

(g) *Organic light emitting diode (OLED)* means a thin-film light-emitting device that typically consists of a series of organic layers between 2 electrical contacts (electrodes).

(h) *General service light-emitting diode (LED or OLED) lamp* means any light emitting diode (LED or OLED) lamp that:

(1) Is a consumer product;

(2) Is intended for general service applications;

(3) Has a medium screw base;

(4) Has a lumen range of not less than 310 lumens and not more than 2,600 lumens; and

(5) Is capable of being operated at a voltage range at least partially within 110 and 130 volts.

(i) *Metal halide lamp fixture* means a light fixture for general lighting application that is designed to be operated with a metal halide lamp and a ballast for a metal halide lamp and that is subject to and complies with Department of Energy efficiency standards issued pursuant to 42 U.S.C. 6295.

(1) Metal halide ballast means a ballast used to start and operate metal halide lamps.

(2) Metal halide lamp means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(j) *Specialty consumer lamp* means

(1) Any lamp that:

(i) Is not included under the definition of general service lamp in this part;

(ii) Has a lumen range between 310 lumens and no more than 2,600 lumens or a rated wattage between 30 and 199;

(iii) Has one of the following bases:

(A) A medium screw base;

(B) A candelabra screw base;

(C) A GU-10 base; or

(D) A GU-24 base; and

(iv) Is capable of being operated at a voltage range at least partially within 110 and 130 volts.



(2) Inclusions. The term *specialty consumer lamp* includes, but is not limited to, the following lamps if such lamps meet the conditions listed in paragraph (1):

- (i) Vibration-service lamps as defined at 42 U.S.C. 6291(30)(AA);
- (ii) Rough service lamps as defined at 42 U.S.C. 6291(30)(X);
- (iii) Appliance lamps as defined at 42 U.S.C. 6291(30)(T); and
- (iv) Shatter resistant lamps (including a shatter proof lamp and a shatter protected lamp) as defined in 42 U.S.C. 6291(30)(Z).

(3) Exclusions. The term *specialty consumer lamp* does not include:

- (i) A black light lamp;
- (ii) A bug lamp;
- (iii) A colored lamp;
- (iv) An infrared lamp;
- (v) A left-hand thread lamp;
- (vi) A marine lamp;
- (vii) A marine signal service lamp;
- (viii) A mine service lamp;
- (ix) A sign service lamp;
- (x) A silver bowl lamp;
- (xi) A showcase lamp;
- (xii) A traffic signal lamp;
- (xiii) A G-shape lamp with diameter of 5 inches or more;
- (xiv) A C7, M-14, P, RP, S, or T shape lamp;
- (xv) A intermediate screw-base lamp; and

(xvi) A plant light lamp.

8. Add new § 305.6 to read as follows:

**§ 305.6 Description of plumbing products.**

(a) *Showerhead* means a component or set of components distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, excluding safety shower showerheads.

(b) *Faucet* means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

(c) *Water closet* means a plumbing fixture having a water-containing receptor which receives liquid and solid body waste and, upon actuation, conveys the waste through an exposed integral trap seal into a gravity drainage system, except such term does not include fixtures designed for installation in prisons.

(d) *Urinal* means a plumbing fixture which receives only liquid body waste and, on demand, conveys the waste through a trap seal into a gravity drainage system, except such term does not include fixtures designed for installation in prisons.

9. In newly re-designated § 305.7, delete paragraph (d)(3), remove the references “305.20,” “305.6,” “305.19,” and add in their place respectively the references “305.27,” “305.9,” and “305.26,” and revise paragraph (e) to read as follows:

**§ 305.7 Prohibited acts.**

\* \* \* \* \*

(e) This part shall not apply to:

(1) Any covered product if it is manufactured, imported, sold, or held for sale for export from the United States, so long as such product is not in fact distributed in commerce for

use in the United States, and such covered product or the container thereof bears a stamp or label stating that such covered product is intended for export.

(2) Televisions manufactured before May 10, 2011.

\*\*\*\*\*

10. In newly re-designated § 305.8, revise paragraph (c) to read as follows:

**§ 305.8 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, water use rate, and other required disclosure content.**

\* \* \* \* \*

(c) Representations for ceiling fans under § 305.21 and televisions under § 305.25 must be derived from applicable procedures in 10 CFR parts 429, 430, and 431.

11. Revise newly re-designated § 305.9 to read as follows:

**§ 305.9 Duty to provide labels on Web sites.**

For each covered product required by this part to bear an EnergyGuide or Lighting Facts label, the manufacturer must make a copy of the label available on a publicly accessible Web site in a manner that allows catalog sellers to hyperlink to the label or download it for use in Web sites or paper catalogs. The label for each specific model must remain on the Web site for six months after production of that model ceases.

12. In newly re-designated § 305.11, revise paragraph (a)(5) to read as follows, remove the references to “§ 305.6(a)” and “§ 305.8(a),” and add in their place respectively the words “305.9” and “§ 305.11(a).”:

**305.11 Submission of data**

(a) \* \* \*

(5) Manufacturers must submit a Web site address for the online EnergyGuide labels covered by § 305.9 in new model and annual reports required by this section.

Manufacturers may accomplish this by either submitting a specific link to a URL for each label, a link to a PDF download for each label, or a link to a Web site that takes users directly to a searchable database of the covered labels from which the label image or download may be accessed using the model number as certified to DOE pursuant to 10 CFR part 429 and the model number advertised in product literature. Such label information must be submitted either at the time the model is certified to DOE pursuant to 10 CFR part 429 or at some time on or before the annual report date immediately following such certification. In lieu of submitting the required information to the Commission, manufacturers may submit such information to the Department of Energy via the CCMS at <https://regulations.doe.gov/ccms> as provided by 10 CFR 429.12. The requirements in this paragraph do not apply to Lighting Facts labels.

\* \* \* \* \*

13. In newly re-designated § 305.12:

- a. Revise the paragraph (c) introductory text and paragraph (c)(1);
  - b. Remove the reference “§ 305.11” and add in its place “§ 305.14 through § 305.19” ;
- and
- c. Remove the reference to “§ 305.20” and add in its place “§ 305.27”.

The revisions read as follows:

**§ 305.12 Ranges of comparability on the required labels.**

\* \* \* \* \*

(c) *Operating costs or efficiency ratings outside current range.* When the estimated

annual operating cost or energy efficiency rating of a given model of a product covered by this section falls outside the limits of the current range for that product, which could result from the introduction of a new or changed model, the manufacturer shall:

(1) Omit placement of such product on the scale appearing on the label, and

\* \* \* \* \*

14. Add new § 305.13 to read as follows:

**§ 305.13 Layout, format, and placement of labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, and pool heaters.**

(a) *Coverage.* The requirements of this section apply to labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, and pool heaters.

(b) *Layout.* Energy labels shall use one size, similar colors, and typefaces with consistent positioning of headline, copy, and charts to maintain uniformity for immediate consumer recognition and readability. Trim size dimensions for the labels shall be as follows: width must be between 5 ¼ inches and 5 ½ inches (13.34 cm. and 13.97 cm.); length must be between 7 3/8 inches (18.73 cm.) and 7 5/8 (19.37 cm.). Copy is to be set between 27 picas and 29 picas and copy page should be centered (right to left and top to bottom). Depth is variable but should follow closely the prototype and sample labels appearing at the end of this part illustrating the basic layout. All positioning, spacing, type sizes, and line widths should be similar to and consistent with the prototype and sample labels in appendix L to this part.

(c) *Type style and setting.* The Arial series typeface or equivalent shall be used exclusively

on the label. Specific sizes and faces to be used are indicated on the prototype labels. No hyphenation should be used in setting headline or copy text. Positioning and spacing should follow the prototypes closely. Generally, text must be set flush left with two points leading except where otherwise indicated. See the prototype labels for specific directions.

(d) *Colors*. The basic colors of all labels covered by this section shall be process yellow or equivalent and process black. The label shall be printed full bleed process yellow. All type and graphics shall be print process black.

(e) *Label types*. Except as indicated in paragraph (e)(3) of this section, the labels must be affixed to the product in the form of an adhesive label for any product covered by this section, or in the form of a hang tag for refrigerators, refrigerator-freezers, freezers, dishwashers, and clothes washers, as follows:

(1) *Adhesive labels*. All adhesive labels should be applied so they can be easily removed without the use of tools or liquids, other than water, but should be applied with an adhesive with an adhesion capacity sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25" x 38") or equivalent, exclusive of the release liner and adhesive. A minimum peel adhesion capacity for the adhesive of 12 ounces per square inch is suggested, but not required if the adhesive can otherwise meet the above standard. In lieu of a label with adhesive backing, manufacturers may adhere the label with adhesive tape, provided the tape is affixed along the entire top and bottom of the label.

(2) *Hang tags*. Labels may be affixed to the product interior in the form of a hang tag using cable ties or double strings connected through reinforced punch holes, or with attachment

and label material of equivalent or greater strength and durability. If paper stock is used for hang tags, it shall have a basic weight of not less than 110 pounds per 500 sheets (25 ½" x 30 ½" index). When materials are used to attach the hang tags to appliance products, the materials shall be of sufficient strength to insure that if gradual pressure is applied to the hang tag by pulling it away from where it is affixed to the product, the hang tag will tear before the material used to affix the hang tag to the product breaks.

(3) *Package labels for certain products.* Labels for electric instantaneous water heaters shall be printed on or affixed to the product's packaging in a conspicuous location. Labels for room air conditioners produced on or after October 1, 2019 shall be printed on or affixed to the principal display panel of the product's packaging.

(f) *Placement*—(1) *Adhesive labels.* Manufacturers shall affix adhesive labels to the covered products in such a position that it is easily read by a consumer examining the product. The label should be generally located on the upper-right-front corner of the product's front exterior. However, some other prominent location may be used as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or consumer. The top of the label should not exceed 74 inches from the base of taller products. The label can be displayed in the form of a flap tag adhered to the top of the appliance and bent (folded at 90°) to hang over the front, as long as this can be done with assurance that it will be readily visible.

(2) *Hang tags.* A hang tag shall be affixed to the interior of the product in such a position that it can be easily read by a consumer examining the product. A hang tag can be affixed in any position that meets this requirement as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or consumer. Hang

tags may only be affixed in refrigerators, refrigerator-freezers, freezers, dishwashers, and clothes washers.

15. Add new § 305.14 to read as follows:

**§ 305.14 Label content for refrigerators, refrigerator-freezers, and freezers.**

(a) *Label content.* (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part, are standard for all labels.

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) Model number(s) will be the designation given by the manufacturer or private labeler.

(4) Capacity or size is that determined in accordance with this part. The capacity provided on the label shall be the model's total refrigerated volume (VT) as determined in accordance with this part and the model description must be consistent with the categories described in Appendices A and B to this part.

(5) Unless otherwise indicated in this paragraph, estimated annual operating costs must be determined in accordance with this part. Labels for dual-mode refrigerator-freezers that can operate as either a refrigerator or a freezer must reflect the estimated energy cost of the model's most energy intensive configuration.

(6) Unless otherwise indicated in this paragraph, ranges of comparability for estimated annual operating costs are found in the appropriate appendices accompanying this part.



(7) Placement of the labeled product on the scale shall be proportionate to the lowest and highest estimated annual operating costs.

(8) Labels must contain the model's estimated annual energy consumption as determined in accordance with this part and as indicated on the sample labels in appendix L.

(9) Labels must contain statements as illustrated in the prototype labels in appendix L and specified as follows by product type:

(i) Labels for refrigerators, refrigerator-freezers, and freezers shall contain the text and graphics illustrated in sample labels of appendix L, including the statement:

Compare ONLY to other labels with yellow numbers.

Labels with yellow numbers are based on the same test procedures.

(ii) Labels for refrigerators and refrigerator-freezers must contain a statement as illustrated in the prototype labels in appendix L and specified as follows (fill in the blanks with the appropriate energy cost figure):

Your cost will depend on your utility rates and use.

Both cost ranges based on models of similar size capacity.

[Insert statement required by paragraph (a)(9)(iii) of this section].

Estimated energy cost based on a national average electricity cost of \_\_ cents per kWh.

[ftc.gov/energy](http://ftc.gov/energy).

(iii) Labels for refrigerators and refrigerator-freezers shall include the following as part of the statement required by paragraph (a)(9)(ii) of this section:

(A) For models covered under appendix A1 to this part, the sentence shall read:

Models with similar features have automatic defrost and no freezer.

(B) For models covered under appendix A2 to this part, the sentence shall read:

Models with similar features have manual defrost.

(C) For models covered under appendix A3 to this part, the sentence shall read:

Models with similar features have partial automatic defrost.

(D) For models covered under appendix A4 to this part, the sentence shall read:

Models with similar features have automatic defrost, top-mounted freezer, and no through-the-door ice.

(E) For models covered under appendix A5 to this part, the sentence shall read:

Models with similar features have automatic defrost, side-mounted freezer, and no through-the-door ice.

(F) For models covered under appendix A6 to this part, the sentence shall read:

Models with similar features have automatic defrost, bottom-mounted freezer, and no through-the-door ice.

(G) For models covered under appendix A7 to this part, the sentence shall read:

Models with similar features have automatic defrost, bottom-mounted freezer and through-the-door ice.

(H) For models covered under appendix A8 to this part, the sentence shall read:

Models with similar features have automatic defrost, side-mounted freezer, and through-the-door ice.

(iv) Labels for freezers must contain a statement as illustrated in the prototype labels in appendix L and specified as follows (fill in the blanks with the appropriate energy cost figure):

Your cost will depend on your utility rates and use.

[Insert statement required by paragraph (a)(10)(v) of this section].

Estimated energy cost based on a national average electricity cost of \_\_\_ cents per kWh.

[ftc.gov/energy](http://ftc.gov/energy).

(v) For freezers, the following sentence shall be included as part of the statement required by paragraph (a)(9)(iv) of this section:

(A) For models covered under appendix B1 to this part, the sentence shall read:

Cost range based only on upright freezer models of similar capacity with manual defrost.

(B) For models covered under appendix B2 to this part, the sentence shall read:

Cost range based only on upright freezer models of similar capacity with automatic defrost.

(C) For models covered under appendix B3 to this part, the sentence shall read:

Cost range based only on chest and other freezer models of similar capacity.

(10) The following statement shall appear on each label as illustrated in the prototype and sample labels in appendix L to this part:

Federal law prohibits removal of this label before consumer purchase.

(b) *Additional information.* No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(1) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

(2) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(3) The manufacturer or private labeler may include the ENERGY STAR logo on the

bottom right corner of the label for certified products. The logo must be 1 inch by 1 inch in size. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on certified covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

16. Add new § 305.15 to read as follows:

**§ 305.15 Label content for clothes washers.**

(a) *Label content.* (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part, are standard for all labels.

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) Model number(s) will be the designation given by the manufacturer or private labeler.

(4) Capacity or size is that determined in accordance this part.

(5) Estimated annual operating costs are as determined in accordance with this part. Labels must disclose estimated annual operating cost for both electricity and natural gas as illustrated in the sample labels in appendix L to this part.

(6) Unless otherwise indicated in this paragraph, ranges of comparability for estimated annual operating costs are found in the appropriate appendices accompanying this part.

(7) Placement of the labeled product on the scale shall be proportionate to the lowest and highest estimated annual operating costs.

(8) Labels must contain the model's estimated annual energy consumption as determined in accordance with this part and as indicated on the sample labels in appendix L.

(9) Labels must contain a statement as illustrated in the prototype labels in appendix L and specified as follows (fill in the blanks with the appropriate capacity and energy cost figures):

Your costs will depend on your utility rates and use.

Cost range based only on [compact/standard] capacity models.

Estimated energy cost is based on six wash loads a week and a national average electricity cost of \_\_ cents per kWh and natural gas cost of \$ \_\_ per therm.

[ftc.gov/energy](http://ftc.gov/energy).

(10) The following statement shall appear on each label as illustrated in the prototype and sample labels in appendix L:

Federal law prohibits removal of this label before consumer purchase.

(b) *Additional information.* No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(1) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

(2) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(3) The manufacturer or private labeler may include the ENERGY STAR logo on the bottom right corner of the label for certified products. The logo must be 1 inch by 1 inch in

size. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on certified covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

17. Add new § 305.16 to read as follows.

**§ 305.16 Label content for dishwashers.**

(a) *Label content.* (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part, are standard for all labels.

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) Model number(s) will be the designation given by the manufacturer or private labeler.

(4) Capacity or size is that determined in accordance with this part.

(5) Estimated annual operating costs are as determined in accordance with this part. Labels must disclose estimated annual operating cost for both electricity and natural gas as illustrated in the sample labels in appendix L to this part.

(6) Unless otherwise indicated in this paragraph, ranges of comparability for estimated annual operating costs are found in the appropriate appendices accompanying this part.

(7) Placement of the labeled product on the scale shall be proportionate to the lowest and

highest estimated annual operating costs.

(8) Labels must contain the model's estimated annual energy consumption as determined in accordance with this part and as indicated on the sample labels in appendix L.

(9) Labels must contain a statement as illustrated in the prototype labels in appendix L and specified as follows (fill in the brackets with the appropriate capacity and the energy cost figures):

Your costs will depend on your utility rates and use.

Cost range based only on [compact/standard] capacity models.

Estimated energy cost is based on four washloads a week, and a national average electricity cost of [ ] cents per kWh and natural gas cost of \$[ ] per therm.

For more information, visit [www.ftc.gov/energy](http://www.ftc.gov/energy).

(10) The following statement shall appear on each label as illustrated in the prototype and sample labels in appendix L to this part:

Federal law prohibits removal of this label before consumer purchase.

(b) *Additional information.* No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(1) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

(2) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(3) The manufacturer or private labeler may include the ENERGY STAR logo on the bottom right corner of the label for certified products. The logo must be 1 inch by 1 inch in

size. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on certified covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

18. Add new § 305.17 to read as follows:

**§ 305.17 Label content for water heaters.**

(a) *Label content.* (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part, are standard for all labels.

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) Model number(s) will be the designation given by the manufacturer or private labeler.

(4) Capacity or size is that determined in accordance with this part. Capacity for storage water heaters shall be presented in both rated storage volume (“tank size (storage capacity)”) and first hour rating as indicated on the sample label in appendix L to this part.

(5) Estimated annual operating costs are as determined in accordance with this part.

(6) Unless otherwise indicated in this paragraph, ranges of comparability for estimated annual operating costs are found in the appropriate appendices accompanying this part.

(7) Placement of the labeled product on the scale shall be proportionate to the lowest and



highest estimated annual operating costs.

(8) Labels must contain the model's estimated annual energy consumption as determined in accordance with this part and as indicated on the sample labels in appendix L to this part.

(9) Labels must contain a statement as illustrated in the prototype labels in appendix L to this part and specified as follows by product type:

(i) For water heaters covered by appendices D1, D2, and D3 to this part, the statement will read as follows (fill in the blanks with the appropriate fuel type, and energy cost figures):

Your costs will depend on your utility rates and use.

Cost range based only on models fueled by [natural gas, oil, propane, or electricity] with a [very small, low, medium, or high] first hour rating [fewer than 18 gallons, 18-50.9 gallons, 51-74.9 gallons, or greater than 75 gallons].

Estimated energy cost is based on a national average [electricity, natural gas, propane, or oil] cost of [\_\_ cents per kWh or \$\_\_ per therm or gallon].

Estimated yearly energy use: \_\_ [kWh or therms].

[ftc.gov/energy](http://ftc.gov/energy).

(ii) For instantaneous water heaters, the statement will read as follows (fill in the blanks with the appropriate model type, and the energy cost figures):

Your costs will depend on your utility rates and use.

Cost range based only on [electric models or models fueled by natural gas] with a [very small, low, medium, or high] gallons per minute rating [0 to 1.6, 1.7 to 2.7, 2.8 to 4.0, or greater than 4.0].

Estimated energy cost is based on a national average [electricity, natural gas, or propane] cost of [ \_\_ cents per kWh or \$\_\_ per therm or gallon].

Estimated yearly energy use: \_\_\_ [kWh or therms].

[ftc.gov/energy](http://ftc.gov/energy).

(10) The following statement shall appear on each label as illustrated in the prototype and sample labels in appendix L:

Federal law prohibits removal of this label before consumer purchase.

(b) *Additional information.* No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(1) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

(2) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(3) The manufacturer or private labeler may include the ENERGY STAR logo on the bottom right corner of the label for certified products. The logo must be 1 inch by 1 inch in size. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on certified covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

19. Add § 305.18 to read as follows:

**§ 305.18 Label content for room air conditioners.**

(a) *Label content.* (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part, are standard for all labels.

- (2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.
- (3) Model number(s) will be the designation given by the manufacturer or private labeler.
- (4) Capacity or size is that determined in accordance with this part.
- (5) Estimated annual operating costs are as determined in accordance with this part.
- (6) Unless otherwise indicated in this paragraph, ranges of comparability for estimated annual operating costs are found in the appropriate appendices accompanying this part.
- (7) Placement of the labeled product on the scale shall be proportionate to the lowest and highest estimated annual operating costs.
- (8) Labels must contain the model's estimated annual energy consumption as determined in accordance with this part and as indicated on the sample labels in appendix L. Labels must contain the model's energy efficiency rating, as applicable, as determined in accordance with this part and as indicated on the sample labels in appendix L to this part.
- (9) Labels must contain a statement as illustrated in the prototype labels in appendix L and specified as follows (fill in the blanks with the appropriate model type, year, energy type, and energy cost figure):

Your costs will depend on your utility rates and use.

Cost range based only on models [of similar capacity without reverse cycle and with louvered sides; of similar capacity without reverse cycle and without louvered sides;

with reverse cycle and with louvered sides; or with reverse cycle and without louvered sides].

Estimated annual energy cost is based on a national average electricity cost of \_\_\_cents per kWh and a seasonal use of 8 hours use per day over a 3 month period.

For more information, visit [www.ftc.gov/energy](http://www.ftc.gov/energy).

(10) The following statement shall appear on each label as illustrated in the prototype and sample labels in appendix L:

Federal law prohibits removal of this label before consumer purchase.

(b) *Additional information.* No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(1) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

(2) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(3) The manufacturer or private labeler may include the ENERGY STAR logo on the bottom right corner of the label for certified products. The logo must be 1 inch by 1 inch in size. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on certified covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

20. Add new § 305.19 to read as follows:

**§ 305.19 Label content for pool heaters.**

(a) *Label content.* (1) Headlines and texts, as illustrated in the prototype and sample labels in appendix L to this part, are standard for all labels.

(2) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(3) Model number(s) will be the designation given by the manufacturer or private labeler.

(4) Capacity or size is that determined in accordance with this part

(5) Thermal efficiencies are as determined in accordance with this part.

(6) Unless otherwise indicated in this paragraph, ranges of comparability for thermal efficiencies are found in the appropriate appendices accompanying this part.

(7) Placement of the labeled product on the scale shall be proportionate to the lowest and highest thermal efficiencies.

(8) Labels must contain the model's energy efficiency rating or thermal efficiency, as applicable, as determined in accordance with this part and as indicated on the sample labels in appendix L to this part.

(9) Labels must contain a statement as illustrated in the prototype labels in appendix L and specified as follows:

Efficiency range based only on models fueled by [natural gas or oil].

For more information, visit [www.ftc.gov/energy](http://www.ftc.gov/energy).

(10) The following statement shall appear on each label as illustrated in the prototype and sample labels in appendix L to this part:

Federal law prohibits removal of this label before consumer purchase.

(b) *Additional information.* No marks or information other than that specified in this part shall appear on or directly adjoining this label except that:

(1) A part or publication number identification may be included on this label, as desired by the manufacturer. If a manufacturer elects to use a part or publication number, it must appear in the lower right-hand corner of the label and be set in 6-point type or smaller.

(2) The energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer.

(3) The manufacturer or private labeler may include the ENERGY STAR logo on the bottom right corner of the label for certified products. The logo must be 1 inch by 1 inch in size. Only manufacturers that have signed a Memorandum of Understanding with the Department of Energy or the Environmental Protection Agency may add the ENERGY STAR logo to labels on certified covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

#### § 305.20 [Amended]

21. In newly re-designated § 305.20, remove the references to “§ 305.5” wherever they appear and add in their place the words “this part,” and remove the reference to “7A” and add in its place the reference “7”.

#### § 305.21 [Amended]

22. In newly re-designated § 305.21, remove the references to “§ 305.5” wherever

they appear and add in their place the reference “§ 305.8.”

§ 305.23 [Amended]

23. In newly re-designated § 305.23, remove the references “§ 305.2(n),” “§ 305.2(w),” “§ 305.2(hh)” wherever they appear and add in their place the words “this part.”

§ 305.24 [Amended]

24. Amend newly re-designated § 305.24 by removing paragraphs (b)(4) and (b)(5).

§ 305.25 [Amended]

25. In newly re-designated § 305.25, for each reference indicated in the left column, remove the reference indicated from wherever it appears in the section, and add in its place the reference indicated in the right column:

<b>Remove</b>	<b>Add</b>
§ 305.11(d)(2)	§ 305.13(e)(2)
§ 305.5 of this part	this part
§ 305.5	this part
§ 305.6	§ 305.9

§ 305.26 [Amended]

26. In § 305.26, remove the references “§ 305.11(f)” and “§ 305.4(e)” and add in their place respectively the references “this part” and “§ 305.7(e).”

§ 305.27 [Amended]

27. In § 305.27, for each reference indicated in the left column, remove the reference indicated from wherever it appears in the section, and add in its place the reference indicated in the right column:

<b>Remove</b>	<b>Add</b>
§ 305.5	this part
§ 305.5 and appendix K of this Part	this part

§ 305.7	this part
§ 305.13	§ 305.21
§ 305.15	§ 305.23
§ 305.15(b)(3)(iv)	§ 305.23(b)(3)(iv)
§ 305.15(d)(1)	§ 305.23(g)(1)
§ 305.16	this part
§ 305.20(a)(1)(ii)	§ 305.27(a)(1)(ii)
§ 305.20(b)(1)(i) and (ii)	§ 305.27(b)(1)(i) and (ii)

§ 305.29 [Amended]

28. In § 305.29, remove the reference to “§ 305.21(b)” and add in its place the reference “§ 305.28(b).”

By direction of the Commission, Commissioner Wilson dissenting.

Donald S. Clark,  
Secretary.



The following will not appear in the Code of Federal Regulations

### **Dissenting Statement of Commissioner Christine S. Wilson**

I dissent from the Commission's decision to issue a Federal Register Notice seeking comment on the proposed changes to the Energy Labeling Rule. I appreciate that staff undertook this Rule review to improve its organization and clarity. Moreover, I understand that the Commission is required by statute to issue a rule governing the energy labeling of appliances.<sup>1</sup> I question, however, whether it is necessary for the Rule to prescribe the weight of the paper (58 pounds per 500 sheets) a manufacturer must use when printing the EnergyGuide label and the minimum peel capacity of the adhesive it must use to affix the label to the appliance. I believe this Commission should review its roster of rules with a deregulatory mindset. Consequently, the Commission should use this opportunity to rethink its approach to the scope and detail of this Rule's requirements.

Freeing businesses from unnecessarily prescriptive requirements benefits consumers. Airlines are one oft-quoted example. In the late 1970s, Alfred E. Kahn was appointed to run the Civil Aeronautics Board, which at that time regulated both price and non-price aspects of competition, including airline routes, fares, and schedules. Regulations even went so far as to specify the size of sandwiches served in flight.<sup>2</sup> Soon after taking office, Kahn recommended disbanding the agency, and Congress agreed.<sup>3</sup> The changes were dramatic:

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<sup>1</sup> Energy Policy and Conservation Act, 42 U.S.C. 6295.

<sup>2</sup> Interview with Alfred E. Kahn, Professor Emeritus of Economics, Cornell University, available at <https://www.pbs.org/fmc/interviews/kahn.htm> ("Since the airlines could not compete in price, they competed in quality. . . . Instead of competing on the meals that they gave and free in-flight entertainment, under regulation, internationally, that was prohibited, because that was another kind of competition. So they actually regulated the size of sandwiches in the international routes.").

<sup>3</sup> The CAB's micromanagement of airlines' operations – up to and including sandwich sizes – led then-CAB Chairman Kahn, later the "Father of Deregulation," to ask "Is this what my mother raised me to do?" See HERBERT HOVENKAMP, *THE OPENING OF AMERICAN LAW: NEOCLASSICAL LEGAL THOUGHT, 1870-1970*, at 321 (2015) (providing quote without attribution); see also Nancy L. Rose, In Remembrance of Alfred E. Kahn: Fred Kahn's Impact on Deregulation and Regulatory Reform, 102 Am.

inflation-adjusted round-trip fares roughly halved over the next 30 years.<sup>4</sup> On some routes, prices fell even further. For example, the minimum inflation-adjusted price an airline could charge between New York and Los Angeles was \$1,442 in 1974; consumers now routinely pay less than \$300.<sup>5</sup>

Although deregulating energy labeling pales in comparison to Kahn's comprehensive deregulation of the airline industry, the same principle – to leave firms room to experiment within the bounds set by applicable law – applies here. For example, a manufacturer with particularly impressive energy conservation statistics might wish to trumpet that achievement with a larger and more detailed graphic. A manufacturer with less impressive statistics must of course satisfy its baseline labeling obligations. Surely, we as a Commission can provide guidance on labeling requirements without dictating minutia involving the type of paper and adhesive employed.

In short, I support fulfilling the statutory mandate that Congress has imposed, but cannot vote to issue the Rule in its present form. As it stands, the Rule is laden with many additional commandments that go far beyond what is necessary to fulfill our obligation under the relevant statute. Although the Commission long ago abandoned some of the most egregious instances of invasive regulatory zeal that

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Econ. Rev. Papers & Proceedings 376 (2012).

<sup>4</sup> See, e.g., Derek Thompson, How Airline Ticket Prices Fell 50% in 30 Years (and Why Nobody Noticed), The Atlantic, Feb. 28, 2013, <https://www.theatlantic.com/business/archive/2013/02/how-airline-ticket-prices-fell-50-in-30-years-and-why-nobody-noticed/273506/>

<sup>5</sup> Id.

earned it the sobriquet of the “second most powerful legislature in Washington,”<sup>6</sup>

forswearing new mistakes is not enough. We must also revisit and pare back existing regulatory excesses, including some of the requirements contained in this rule.

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<sup>6</sup> See, e.g., J. Howard Beales III & Timothy J. Muris, FTC Consumer Protection at 100: 1970s Redux or Protecting Markets to Protect Consumers?, 83 Geo. Wash. L. Rev. 2157, 2159 (2015) (quoting Jean Carper, The Backlash at the FTC, Wash. Post, Feb. 6, 1977, at C1).